

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

CHETTY HOLDINGS, INC., et al.	:	
	:	CIVIL ACTION
v.	:	No. 11-4640
	:	
NORTHMARQ CAPITAL, LLC, et al.	:	
	:	

ORDER

AND NOW, this 1st day of May, 2012, upon consideration of the motion to dismiss filed by defendants AmeriSphere Multifamily Finance, LLC, AmeriSphere Mortgage Finance, LLC and AmeriSphere Financial, LLC, plaintiffs' response, and the AmeriSphere defendants' reply, it is ORDERED that the motion is GRANTED as follows:

- (1) Plaintiffs' claims against AmeriSphere Multifamily Finance, LLC and AmeriSphere Financial, LLC are DISMISSED.
- (2) Counts V, VI, and VII of plaintiffs' second amended complaint – plaintiffs' claims for negligence and negligent and fraudulent misrepresentation against AmeriSphere Mortgage Finance, LLC – are DISMISSED.
- (3) Count VIII of plaintiffs' second amended complaint – plaintiffs' claim for fraud in the inducement against AmeriSphere Mortgage Finance, LLC – is DISMISSED with leave to amend.
- (4) Count IX of plaintiffs' second amended complaint – plaintiffs' claim for Concert of Action – is DISMISSED with leave to reassert the claim in an amended complaint as against AmeriSphere Mortgage Finance, LLC to the extent that plaintiffs can allege sufficient facts to support a claim of fraud

in the inducement against it.

Upon consideration of the motion to dismiss filed by defendants NorthMarq Capital, LLC and NorthMarq Capital, Inc. and the motion to dismiss filed by defendant Timothy C. Kuhn, plaintiffs' response and the replies filed by Kuhn and the NorthMarq defendants, it is ORDERED that the motions are DENIED IN PART AND GRANTED IN PART as follows:

- (1) Plaintiffs' claims against NorthMarq Capital Inc. are DISMISSED.
- (2) Counts I, II, III and IV of plaintiffs' second amended complaint – plaintiffs' claims for negligence, negligent misrepresentation, fraudulent misrepresentation, and fraud in the inducement against NorthMarq Capital, LLC and Timothy C. Kuhn are DISMISSED with leave to amend.
- (3) Count IX of plaintiffs' second amended complaint – plaintiffs' claim for Concert of Action – is DISMISSED with leave to reassert the claim in an amended complaint as against NorthMarq Capital, LLC and Timothy C. Kuhn to the extent that plaintiffs can allege sufficient facts to support a claim for negligence, negligent misrepresentation, fraudulent misrepresentation, or fraud in the inducement against them.

Plaintiffs may file an amended complaint consistent with the terms of this Order and the accompanying memorandum of law on or before May 25, 2012.

s/Thomas N. O'Neill, Jr.
THOMAS N. O'NEILL, JR., J.